

12/3/2019

The Honorable Mary D. Nichols, Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Subject: Proposed Control Measure for Ocean-Going Vessels at Berth

Yusen Terminals LLC (Yusen) appreciates the opportunity to comment on the proposed amendment to the Airborne Toxic Control Measures for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At Berth in a California Port – also known as the “At-Berth Rule”. Yusen is a marine terminal operator in the Port of Los Angeles. Yusen services over 144 vessel calls every year, providing a vital link in the global supply chain, while employing workers with good paying jobs for California families. At the same time, Yusen is committed to environmental stewardship and goes to great lengths to comply with a whole host of federal, state, and local regulations.

Yusen, working through the Pacific Merchant Shipping Association, has been a dedicated partner with CARB to reduce vessel emissions since the inception of at berth shore power usage. While our commitment to coordinate vessel usage of at berth shore power remains as high as ever, we do have concerns regarding the language of the draft rule amendment.

1. Defining “Ready to Work”. We feel this definition is narrow in scope. Simply because a vessel has been cleared, by a government entity, to board does not necessarily demonstrate that a vessel is “ready to work”. Other variables must be considered for a ready to work definition: labor and cargo handling equipment availability, environmental/weather factors, no work holidays, etc. This definition must capture all aspects of being “ready to work”. Also, the vast majority of vessels use AMP containers that are stored on terminal and are required to be loaded onto vessels prior to shore power utilization. A vessel is not ready to plug in until the AMP container is in position and ship’s crew making the necessary preparations.
2. Repetitive/duplication of work. There is no need for a carrier, marine terminal operator, port authority to all supply the same data submittals to CARB. Yusen simply does not have the staff available to compile data and report to CARB for 144 vessel calls per year. We suggest that port authorities compile data and report to CARB quarterly. The administrative burden proposed by the draft regulatory reporting language is onerous.
3. Liability and Responsibility. As a marine terminal operator, Yusen acts as a coordinator for shore power connections/disconnections. Yusen only employs its labor to physically perform plug/unplug work and loading/unloading of AMP units. The Port of Los Angeles is responsible for AMP vault installation, maintenance, and initiating the flow of electricity to AMP equipped vessels. Vessel agents schedule with Port of Los Angeles electricians to energize and de-energize electricity flows. Port authorities must take on more responsibility in the draft language. The port has numerous responsibilities to ensure a successful AMP connection is made and a marine terminal operator should not be responsible for a technical issue outside of its control. Unless the marine terminal operator is negligent by not ordering labor to assist with shore power connections and not performing the proper coordination between port authorities, arriving vessels, etc then terminals should rarely be at fault

for a failure to use shore power. It appears that marine terminal operators are being targeted for non-compliance for factors outside our span of control.

4. a. TIEs/VIEs. Some non-compliant scenarios split responsibility between carriers, port authorities, and marine terminal operators. Who decides how to split a TIE or VIE? Will CARB put arbitration machinery in place to hear arguments when disagreements occur between regulated entities? This is a recipe for endless claims, legal cost, and wasted money.

b. Marine terminal operators that perform highly with coordinating shore power usage should be able to retain TIEs for at least 3 years. This is an incentive for the hard work by terminal management and labor to comply with the at berth regulation and can be used in situations where terminals experience uncontrollable issues prohibiting the use of shore power connections. Let's reward terminal operators for their efforts to reduce emissions.

5. Remediation fund. How was the \$1,900/hour amount calculated? Who will administer this fund? Who decides what emissions projects will receive funds. What is the appeals process? The draft language should be updated with remediation fund specifics and appeals processes.

6. Who is at fault if shore power or alternative compliance technology options are not available? The marine terminal operator is not the source of vessel emissions and should not be held liable for unsuccessful shore power connections due to circumstances beyond our control. If we comply with the proposed check list and make every reasonable effort to execute a shore power connection/use of alternative technology, with no malintent, how can the terminal operator be held responsible?

Yusen is fully committed to reducing emissions and our past and current actions reflect this. We work collaboratively with ocean carriers, the Port of Los Angeles, and longshore labor to maximize shore power utilization. We look forward to working with CARB on refinements to improve the proposed control measure.

Sincerely,



Ken Fletcher
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Facility Security Officer
Yusen Terminals LLC